

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 337 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? Yes.
2. To be referred to the Reporter or not? No.

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3. Whether Their Lordships wish to see the fair copy of the judgement? No.
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No.
5. Whether it is to be circulated to the Civil Judge?
No.

DIVISIONAL CONTROLLER

Versus

MAHENDRA J LANGALIYA

Appearance:

MR YS LAKHANI for Petitioner
MR TR MISHRA for Respondent No. 1

CORAM : MR.JUSTICE S.D.PANDIT

Date of decision: 03/08/98

ORAL JUDGEMENT

Rule. Mr. T.R. Mishra, learned advocate for respondent waives service of rule.

2. The petitioner-Gujarat State Road Transport Corporation has preferred the present petition to challenge the award passed by the Labour Court, Bhavnagar

in Reference No.183/95 on 28.01.97.

3. The respondent Mahendra J. Langaliya was working with petitioner-Corporation as a conductor. He was conductor on the bus which was proceeding from Gadhada to Haraniya Ladle. The said bus was checked by the checking party and at that time it was found, as per claim of the petitioner, that he had recovered Rs.2.50/- from five passengers and had not issued tickets to them. Therefore, a show-cause-notice was issued to the respondent. In response to the said show-cause-notice, the respondent submitted that he was going on the said route for the first time, therefore, he was not conversant with the fares of the various stages and that had delayed the process of issuing tickets and when he was in process of issuing tickets, his bus was checked and there was no intention on his part to commit any misappropriation. The said reply given by him had not found the favour of the Corporation, and therefore, Corporation proceeded with the departmental enquiry. In the departmental enquiry, it was found that he had committed a misconduct of plying the bus without fully booking the tickets, and therefore, he was dismissed from service on 4.1.95. He, therefore, raised an industrial dispute and the said industrial dispute resulted into Reference No.183/95.

4. The learned Labour Court gave an opportunity of being heard to both sides and then on considering the material produced in the departmental enquiry which was not disputed/challenge, came to the conclusion that the punishment of dismissal from the service was grossly erroneous and inadequate. The Labour Court came to the conclusion that there must be interference in the quantum of the punishment. The Labour Court, therefore, partly allowed the said reference directed reinstatement of the workman with 50% of backwages.

5. The Corporation has come before this court to challenge the said award. The learned advocate for the Corporation Mr. Devnani vehemently urged before me that it was a clear case of misappropriation and therefore the learned Labour Court was not at all justified in interfering with the quantum of the punishment, but, if the order of the Learned Labour Court is considered then it will be quite clear that the claim of the Corporation that the delinquent workman was found guilty of misappropriation could not be accepted. The Learned Labour Court has recorded the findings that the respondent had committed misconduct of plying the bus without booking. Respondent had given the explanation

for not issuing the tickets by saying that the workman was on the said route for the first time and because of his first trip on the said route, there was delay in issuing tickets as he was not knowing the various stages and their fares on the said route. The Learned Labour Court has further recorded the finding that the said explanation could not be said to be false and in the departmental enquiry the said explanation given by him was taken into consideration and consequently he was held not guilty of misconduct of committing misappropriation but was found having committed a misconduct of allowing his bus to ply without fully booking the tickets. When in the departmental proceedings the misconduct of allowing his bus to ply without fully booking the tickets is held to have been proved, it is obvious that the department had also not found him guilty of committing misappropriation. Therefore when he was not guilty of committing misappropriation, punishment of dismissal is not at all justified. Therefore, the Learned Labour Court was quite justified in interfering with the quantum of punishment and the quantum of punishment could not be said either perverse or grossly erroneous resulting into miscarriage of justice. Therefore, in these circumstances, no interference is called for by this court by exercise of its power under Article 226 and 227 of the Constitution of India. Therefore, the present petition deserves to be rejected.

6. But there seems to be some mistake in issuing the certified copy of the award to the petitioner. In one certified copy of the award, it has been mentioned that the workman is to be reinstated with 25% backwages. The said certified copy issued to the petitioner is a xerox copy of the typed award and in the said typed award, the backwages are mentioned as 25%. But in the second certified copy which is issued to the petitioner, the figure 25% which is originally typed figure is cut off and in place figure 50% is written in hand. In the above circumstances one has to come to the conclusion that this interpollution and alteration had been done after issuing the first certified copy to the petitioner. It is not necessary for me to go into details as to who had committed such interpollution/alteration. I will only mention that in view of issuing of the first certified copy to the petitioner, the award must be read as order of reinstatement of workman that only 25% of backwages. I will only direct that the copy of this judgment should be send to the President of the Industrial Court in order to carry out the necessary inquiry or investigation regarding the alteration made in the award and to take necessary action.

7. Thus, I discharge the rule by making above observations and disposed of the petition by directing the parties to bear their respective costs.

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